

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS
AUTHORIZING AN EXPENDITURE OF TAX INCREMENT REVENUE FROM
PROJECT AREA NO. 1 IN AN AMOUNT NOT TO EXCEED SEVEN MILLION DOLLARS
TO DEFEASE THE GREAT MALL OF THE BAY AREA SALES TAX REVEUE BONDS,
SERIES 2000**

WHEREAS, the Agency, pursuant to the Great Mall Redevelopment Plan, obligated itself to reimburse the Developer of the Great Mall for certain off-site public improvements ("the Improvements") constructed by the Great Mall Developer ("the Obligation").

WHEREAS, the City Council determined, pursuant to Health and Safety Code section 33445, that the Improvements were of benefit to the Great Mall Project Area, would eliminate blighting conditions in the project area, and that there were no other means financing the Improvements available to the City.

WHEREAS, the Agency, in conjunction with the City, and through the Milpitas Financing Authority ("the Authority"), financed the Obligation by issuing bonds secured by the receipt of one-half of the sales tax revenues generated on the Great Mall Parcel ("the Bonds").

WHEREAS, by Resolution No. 192, adopted in 1976, the Agency established the Milpitas Redevelopment Project Area No. 1 ("Project Area No. 1") located within the City of Milpitas, California ("City"), and adopted a redevelopment plan for the Project Area.

WHEREAS, in 2003, the Agency adopted an amendment to the Project Area No. 1 Redevelopment Plan that added certain territory to the Project Area ("the Additional Territory"), and much of the Additional Territory is directly adjacent to the Great Mall Redevelopment Area.

WHEREAS, the Additional Territory and portions of the remainder of Project Area No. 1 are benefited by the Improvements, as demonstrated by the location of the improvements and supporting staff memorandum which documents were included in the Agency's March 16, 2004 agenda ("the Staff Report").

WHEREAS, the Agency, City, and Authority now desire to defease the Bonds, and the Agency intends to use property tax increment revenue from Project Area No. 1 for the purpose of defeasing the Bonds.

WHEREAS, the Agency would facilitate the defeasement by transferring the amount of funds necessary to ensure the payment of the principal and interest on the Bonds to an escrow account ("the Transfer"), from which funds the Escrow Bank would pay the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Milpitas, as follows:

1. The Agency hereby determines, based on the foregoing recitals and the information contained in the Staff Report, and under Health and Safety Code section 33445, that the purpose of the Transfer is to pay for public improvements that are of benefit to Project Area No. 1.

2. The Agency hereby approves the payment in an amount not to exceed seven million dollars (\$7,000,000) and hereby authorizes the Executive Director to take any and all actions necessary to facilitate the Transfer.

PASSED AND ADOPTED this _____ day of _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Chairperson

APPROVED AS TO FORM:

Steven T. Mattas, Agency Counsel

Resolution No.

**A RESOLUTION OF THE MILPITAS PUBLIC FINANCING
AUTHORITY AUTHORIZING THE DEFEASANCE OF THE
AUTHORITY'S GREAT MALL OF THE BAY AREA SALES TAX
REVENUE BONDS, SERIES 2000, AND APPROVING RELATED
AGREEMENTS AND ACTIONS**

WHEREAS, the Milpitas Redevelopment Agency (the "Agency") and the City of Milpitas have previously authorized and executed a Joint Exercise of Powers Agreement dated as of July 1, 1997, pursuant to which there has been established the Milpitas Public Financing Authority (the "Authority") as a joint powers authority under the laws of the State of California; and

WHEREAS, the Authority has previously issued its Great Mall of the Bay Area Sales Tax Revenue Bonds, Series 2000 (the "Sales Tax Bonds") to provide long term financing for certain reimbursement obligations of the Agency pursuant to an Owner Participation Agreement dated as of July 20, 1993, between the Agency and Ford Motor Land Development Corporation; and

WHEREAS, the Authority has determined to provide for the defeasance of the Sales Tax Bonds; and

WHEREAS, the Board of Directors of the Authority wishes at this time to authorize all proceedings relating to the defeasance of the Sales Tax Bonds and to approve the execution and delivery of all agreements and documents relating thereto;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Milpitas Public Financing Authority as follows:

Section 1. Defeasance of the Sales Tax Bonds. The Board of Directors hereby approves the defeasance of the Sales Tax Bonds pursuant to the terms of an Escrow Deposit and Trust Agreement (the "Escrow Agreement") dated as of April 1, 2004, by and between the Authority and U.S. Bank National Association as Escrow Bank. The Board of Directors hereby authorizes and directs the Director or the Director of Financial Affairs (the "Authorized Officer") to execute, and the Secretary to attest and affix the seal of the Authority to, the Escrow Agreement for and in the name of the Authority in substantially the form on file with the Secretary, together with any changes therein or additions thereto deemed advisable by the Authorized Officer, and the execution thereof by the Authorized Officer shall be conclusive evidence of such approval of any such changes or additions.

Section 2. Official Actions. The Chairperson, the Director, the Director of Financial Affairs, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the defeasance of the Sales Tax Bonds. Whenever in this Resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the Milpitas Public Financing Authority at a special meeting thereof held on the ____ day of _____, 2004.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ESCROW DEPOSIT AND TRUST AGREEMENT

by and between the

MILPITAS PUBLIC FINANCING AUTHORITY

and

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Bank

Dated as of April 1, 2004

Relating to:

Milpitas Public Financing Authority
Great Mall of the Bay Area
Sales Tax Revenue Bonds, Series 2000

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ESCROW DEPOSIT AND TRUST AGREEMENT

This ESCROW DEPOSIT AND TRUST AGREEMENT is made and entered into as of the 1st day of April, 2004 (this "Agreement") by and between the MILPITAS PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under and by virtue of the laws of the State of California (the "Authority"), and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, as escrow holder hereunder (the "Escrow Bank") and as trustee with respect to the Prior Bonds as hereinafter defined (the Escrow Bank being hereinafter referred to in such respect as the "Prior Bonds Trustee");

WITNESSETH:

WHEREAS, the Authority has previously issued its \$9,205,000 aggregate principal amount of Milpitas Public Financing Authority Great Mall of the Bay Area Sales Tax Revenue Bonds, Series 2000 (the "Prior Bonds") pursuant to an Indenture of Trust dated as of May 1, 2000, by and between the Agency and the Prior Bonds Trustee (the "Prior Indenture"); and

WHEREAS, the Authority has determined to defease and discharge the Prior Bonds;

WHEREAS, the Prior Indenture contains provisions relating to the defeasance of all or any portion of the Prior Bonds upon the deposit with the Escrow Bank, as Prior Bonds Trustee, of cash and non-callable direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America ("Federal Securities") sufficient to pay when due the principal and interest due and to become due on the Prior Bonds on the maturity date, and the Authority wishes to make such a deposit with the Escrow Bank and to enter into this Agreement for the purpose of providing the terms and conditions for the deposit and application of amounts so deposited; and

WHEREAS, the Escrow Bank has full powers to act with respect to the irrevocable escrow and trust created herein and to perform the duties and obligations to be undertaken pursuant to this Agreement;

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

Section 1. Federal Securities. Federal Securities means the United States Treasury Securities deposited in the Prior Bonds Escrow Fund pursuant to the provisions of this Agreement, which Federal Securities are within the meaning of such term as used in the Prior Indenture.

Section 2. Appointment of Escrow Bank. The Authority hereby appoints the Escrow Bank, as escrow holder for all purposes of this Agreement and in accordance with the terms and provisions of this Agreement, and the Escrow Bank hereby accepts such appointment.

Section 3. Establishment of Prior Bonds Escrow Fund. The Escrow Bank agrees to establish and maintain a special trust account designated the "Prior Bonds Escrow Fund,"

which shall be held by the Escrow Bank, as a segregated fund separate and distinct from all other funds and accounts held by the Escrow Bank, in trust as security for the payment of the principal of and interest on the Prior Bonds.

Section 4. Deposit and Transfer of Funds. On April __, 2004 (the "Closing Date"), the Authority shall transfer or cause to be transferred into the Prior Bonds Escrow Fund in immediately available funds the amount of \$_____. In addition, the Escrow Bank as the Prior Bonds Trustee, shall transfer into the Prior Bonds Escrow Fund the following amounts from the funds and accounts held under the Prior Indenture: the amount of \$_____ from the Revenue Fund; the amount of \$_____ from the Reserve Account; and the amount of \$_____ from the Redemption Account.

Section 5. Application of Deposit. Of the amount deposited in the Prior Bonds Escrow Fund pursuant to Section 4 hereof, the amount of \$_____ shall be invested in the Federal Securities described in Exhibit A, attached hereto and hereby made a part hereof and the balance of \$_____ shall remain in cash uninvested, and the Authority warrants that the amount deposited in the Prior Bonds Escrow Fund shall be sufficient for such purposes. The Authority hereby directs the Escrow Bank to acquire the Federal Securities for deposit in the Prior Bonds Escrow Fund.

After the Escrow Bank shall have paid or have made provision for payment of all principal of and interest on the Prior Bonds as provided in Section 6 hereof, the Escrow Bank shall promptly transfer to the Authority any surplus amounts remaining in the Prior Bonds Escrow Fund to be used by the Authority for any lawful purpose.

Section 6. Instructions as to Application of Deposit, Payment of Prior Bonds. The total amount of Federal Securities and cash held in the Prior Bonds Escrow Fund pursuant to Section 5 hereof shall be deemed to be and shall constitute the deposit permitted to be made by the Authority to pay in full the balance of the Prior Bonds pursuant to Section 10.03 of the Prior Indenture. In accordance with said Section 10.03, the Authority hereby irrevocably directs and instructs the Escrow Bank to apply the maturing amounts of the Federal Securities and cash to pay all principal and interest due on the Prior Bonds through June 1, 2015, the date of maturity of the Prior Bonds, all as more particularly set forth in Exhibit B, attached hereto and hereby made a part hereof.

_____, certified public accountants, has confirmed, in its report to the Authority and certain other parties to the proceedings that the deposit in the Prior Bonds Escrow Fund of such Federal Securities, together with interest to accrue thereon, will be fully sufficient to pay all of the principal of and interest on the Prior Bonds through the respective dates of maturity of the Prior Bonds.

Section 7. Application of Certain Terms of Prior Indenture. All of the terms of the Prior Indenture relating to the payment of the Prior Bonds prior to maturity and to the making of payments of principal and interest on the Prior Bonds, as applicable, are incorporated in this Agreement as if set forth in full herein. The provisions of the Prior Indenture relating to the resignation and removal of the Prior Bonds Trustee are also incorporated in this Agreement as if set forth in full herein and shall be the procedure to be followed with respect to any resignation or removal of the Escrow Bank hereunder.

Section 8. Compensation to Escrow Bank. The Authority shall pay or cause the Authority to pay the Escrow Bank full compensation for its duties under this Agreement, including out-of-pocket costs such as publication costs, redemption costs and expenses, legal fees and expenses, which fees and expenses shall include the allocated costs and disbursements of in-house counsel (to the extent such counsel's services are not redundant of services provided

by external counsel to Escrow Bank) and other costs and expenses relating hereto and, in addition, fees, costs and expenses relating to the purchase of any Federal Securities after the date hereof, pursuant to separate agreement between the Authority and the Escrow Bank. Such compensation shall not affect the right of Escrow Bank, as Trustee for the Prior Bonds, to compensation for its duties (including but not limited to, exchanges and transfers of Prior Bonds), under the Prior Indenture. Under no circumstances shall amounts deposited in the Prior Bonds Escrow Fund be deemed to be available for said purposes prior to the payment in full of all of the principal of, interest and early prepayment premiums on the Prior Bonds in accordance with Section 6 hereof.

Section 9. Liabilities and Obligations of Escrow Bank. The Escrow Bank shall have no obligation to make any payment or disbursement of any type or incur any financial liability in the performance of its duties under this Agreement unless the Authority shall have deposited sufficient funds with the Escrow Bank. The Escrow Bank may rely and shall be protected in acting upon the written instructions of the Authority or its agents relating to any matter or action as Escrow Bank under this Agreement. The Escrow Bank shall not be required to act upon any oral instructions, but may request that such instruction be given in writing.

The Authority covenants to indemnify and hold harmless the Escrow Bank against any loss, liability or expense, including legal fees and expenses, which fees and expenses shall include the allocated costs and disbursements of in-house counsel (to the extent such counsel's services are not redundant of services provided by external counsel to Escrow Bank) in connection with the performance of any of its duties hereunder, except the Escrow Bank shall not be indemnified against any loss, liability or expense resulting from its negligence or willful misconduct. Such indemnification shall survive the termination and discharge of this Agreement or the removal or resignation of the Escrow Bank.

The Escrow Bank undertakes only such duties as are expressly and specifically set forth in this Agreement and no implied duties or obligations shall be read into this Agreement against the Escrow Bank. The Escrow Bank shall not be responsible for any of the recitals or representations made herein other than that the Escrow Bank is qualified to accept and administer the trusts created hereunder. The Escrow Bank shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys deposited with it to pay the principal of, interest on the Prior Bonds. The Escrow Bank shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. The Escrow Bank may consult with counsel of its own choice and the opinion of such counsel shall be full and complete authorization to take or suffer any action in accordance with such opinion of counsel.

Except as otherwise provided in this Agreement, whenever in the administration of this Agreement the Escrow Bank shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Bank, be deemed to be conclusively proved and established by a certificate of any authorized representative of the Authority, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Bank, be full warrant to the Escrow Bank for any action taken or suffered by it under the provisions of this Agreement upon the faith thereof. The Escrow Bank may conclusively rely, as to the truth and accuracy of the statements and correctness of the opinions and the calculations provided, and shall be protected and indemnified, in acting or refraining from acting, upon any written notice, instruction, request, certificate, document or opinion furnished to the Escrow Bank signed or presented by the proper party, and it need not investigate any fact or matter stated in such notice, instruction, request, certificate or opinion.

The Escrow Bank shall incur no liability for losses arising from any investment made pursuant to this Agreement.

Any company into which the Escrow Bank may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 10. Amendment. This Agreement may be amended by the parties hereto if such amendment shall be for the purpose of curing or correcting any ambiguous or defective provision hereof, but only, in either case, if there first shall have been filed with the Escrow Bank a written opinion of bond counsel stating that such amendment will not cause interest on the Prior Bonds to become includable in gross income for federal tax purposes.

Section 11. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement. The Authority and the Escrow Bank hereby declare that they would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof would have been authorized irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Agreement may be held illegal, invalid or unenforceable.

Section 12. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13. Governing Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 14. Notices. All notices, instructions, accounting and other communications under this Agreement shall be in writing and shall be deemed duly given to the parties hereto if sent by facsimile transmission (telecopy) or sent by U.S. Postal Service mail, 48 hours after deposit thereto, postage prepaid and addressed as follows:

Authority: Milpitas Public Financing Authority
455 E. Calaveras Boulevard
Milpitas California 95035
Attn: Director

Escrow Bank: U.S. Bank National Association
One California Street, Suite 2550
San Francisco, California 94111
Reference: Milpitas Public Financing Authority

IN WITNESS WHEREOF, the Authority and the Escrow Bank have each caused this Agreement to be executed by their duly authorized officers all as of the date first above written.

MILPITAS PUBLIC FINANCING AUTHORITY

By: _____
Director of Financial Affairs

U.S. BANK NATIONAL ASSOCIATION,
as *Escrow Bank*

By: _____
Authorized Signatory

EXHIBIT A
SCHEDULE OF FEDERAL SECURITIES

<u>Type of Security</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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EXHIBIT B
PAYMENT SCHEDULE OF PRIOR BONDS

<u>Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
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MEMORANDUM

MAR - 9 2004
RECEIVED

Department of the City Attorney



To: Blair King, Assistant City Manager

From: Steven T. Mattas, City Attorney
By: John D. Bakker, Assistant City Attorney JB

Subject: Great Mall Bond Defeasance; Authority to Use Project Area No. 1 Tax Increment

Date: March 8, 2004

Question Presented: May the RDA use tax-increment revenues from Milpitas Project Area No. 1 to pay for public improvements that were initially constructed to serve the Great Mall Project Area but that also benefit Project Area No. 1?

Answer: Yes.

Analysis: The Milpitas Redevelopment Agency, pursuant to the Great Mall Redevelopment Plan, obligated itself to reimburse the Developer of the Great Mall for certain off-site public improvements ("the Off-Site Improvements") constructed by the Great Mall Developer ("the Obligation"). The RDA financed the Obligation by issuing bonds secured by the receipt of one half of the sales tax revenues from the Great Mall Parcel. The City and the RDA now desire that property tax increment from the Project Area No. 1 be used to pay off the bonds issued by the RDA for the Off-Site Improvements.

The Community Redevelopment Law (Health & Saf. Code, §§ 33000 et seq.) provides generally that a redevelopment agency may pay for the cost of publicly owned improvements (including real property) both within and without a redevelopment area. In order to make such payments, the agency must find:

1. That the improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the project is located within another project area;
2. That no other reasonable means of financing the improvements are available to the community; and
3. That the payment of funds for improvements will assist in the elimination of one or more blighting conditions in the project area.

(See Health & Saf. Code, § 33445.)

TO: Blair King, Assistant City Manager
FROM: Steve Mattas, City Attorney
RE: Great Mall Bond Defeasance; Authority to Use Project Area No. 1 Tax Increment
DATE: March 8, 2004
PAGE: 2

The Redevelopment Plan for Project Area No. 1 specifically authorizes the RDA to pay for the costs of public improvements. It provides:

To the extent now and hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any publicly-owned building, facility, structure, or other improvement either within or without the Project Area, for itself or for any public body or entity, which buildings, facilities, structures, or other improvements are or would be of benefit to the Project Area.

(Amended and Restated Redevelopment Plan for Milpitas Redevelopment Project Area No. 1 (June 2003), § 326, pp. 16--17.)

Notwithstanding the fact that the Off-Site Improvements are already in existence, the RDA can "pay for" those improvements with revenues from whatever Project Area is benefited by the improvements. Our research disclosed nothing in the Community Development Law that limits an Agency's authority to "pay for" improvements provided that those improvements benefit the project area from which the revenues are derived. The Project Area No. 1 Redevelopment Plan specifically authorizes the RDA to "pay for" publicly owned improvements, such as the Off-Site Improvements provided that they benefit the Project Area from which the funds are derived. (*Ibid.*) Accordingly, to the extent that the RDA can make the findings required by Health and Safety Code section 33445, the Agency may use tax-increment revenue from Project Area No. 1 to pay off the debt associated with the Obligation.

We have reviewed the list of Off-Site Improvements associated with the Obligation, and most if not all of the Off-Site Improvements are of direct benefit to Project Area No. 1.¹ One of the key improvements was the widening of Capitol Avenue, which was renamed Great Mall Parkway. By providing direct access to Project Area No. 1 from Interstate 880, this improvement directly and substantially benefits Project Area No. 1. Project Area No. 1 was recently amended to include territory to the southwest of Great Mall Parkway and south of Montague Expressway, and those areas benefit from the access provided by Great Mall Parkway. The recent addition of territory to Project Area No. 1 also included territory north of Great Mall Parkway and the Great Mall, and Great Mall Parkway and a number of the traffic signals that are included in the Off-Site Improvements serve that territory. Similarly, even before the recent addition of territory to Project Area No. 1, portions of Project Area No. 1—the Abel Property and the Elmwood site—were benefited by the traffic improvements to Great Mall Parkway because those portions of Project Area No. 1 are adjacent to or otherwise provided access by Great Mall Parkway. Although this roadway benefits the Great Mall Redevelopment Area, it also substantially benefits

¹ While none of the Off-Site Improvements are specifically "provided for" in the list of "Proposed Public Improvements" shown in Attachment No. 4 to the Redevelopment Plan (see Health & Saf. Code, § 33445, subd. (b) [requiring that "acquisition of property and installation or construction of *each facility* shall be provided for in the redevelopment plan" (emphasis supplied)]), the list does include a statement that "[o]ther redevelopment activities may be necessary to alleviate blighting conditions, facilitate development or otherwise carry out the Agency's purposes." We believe therefore that the Plan "provides for" the Off-Site Improvements.

TO: Blair King, Assistant City Manager
FROM: Steve Mattas, City Attorney
RE: Great Mall Bond Defeasance; Authority to Use Project Area No. 1 Tax Increment
DATE: March 8, 2004
PAGE: 3

the properties within Redevelopment Area No. 1. The other improvements are primarily traffic improvements that provide access to the properties within Project Area No. 1.

Based on these facts, the RDA can find that the (a) that the improvements are of benefit to Project Area No. 1 or the immediate neighborhood in which the project is located, and (b) that the payment of funds for the Off-Site improvements will assist in the elimination of one or more blighting conditions in the project area. With regard to the third finding required by section 33445 ("That no other reasonable means of financing the improvements are available to the community"), the RDA's initial determination for the Great Mall Project Area that such financing was necessary is sufficient. If challenged, the RDA's findings would almost certainly be upheld, given the rather narrow scope of review. (See Health & Saf. Code, § 33445, subd. (b) [stating that the "determinations by the agency and the local legislative body . . . shall be final and conclusive"]; *Meaney v. Sacramento Housing and Redevelopment Agency* (1993) 13 Cal.App.4th 566 [stating that the "evidentiary basis is beyond the reach of judicial scrutiny" but that the court may inquire into whether section 33445's procedures were followed].)

Finally, a noticed public hearing is not required under Health and Safety Code section 33679 because the RDA is not committing tax increment for the construction of a "publicly owned building." The Off-Site Improvements do not include any public buildings.

Please let us know if you have any questions.

c: Thomas J. Wilson, City Manager

[FORM OF OPINION OF JONES HALL]

_____, 2004

Milpitas Public Financing Authority
455 East Calaveras Boulevard
Milpitas, California 95035

***DEFEASANCE OPINION: \$9,205,000 Milpitas Public Financing Authority, Great Mall
of the Bay Area Sales Tax Revenue Bonds, Series 2000***

Members of the Authority:

We have acted as bond counsel to the Milpitas Public Financing Authority (the "Authority") in connection with the defeasance of the \$9,205,000 Milpitas Public Financing Authority, Great Mall of the Bay Area Sales Tax Revenue Bonds, Series 2000" (the "Bonds"), issued pursuant to an Indenture of Trust dated as of May 1, 2000 (the "Indenture"), by and between the Authority and U.S. Bank Trust National Association, as trustee. We have examined an executed copy of the Indenture, the executed Escrow Deposit and Trust Agreement, dated as of April 1, 2004 (the "Escrow Agreement"), by and between the Authority and U.S. Bank National Association, as escrow bank (the "Escrow Bank") and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the Authority contained in the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, that as a result of the deposit and application of funds as provided in the Escrow Agreement, the conditions precedent provided for in the Indenture relating to the discharge and satisfaction of the obligations of the Authority have been satisfied; and that the pledge of Revenues and other assets made under the Indenture have ceased, terminated, become void and have been completely discharged and satisfied. In rendering such opinion, we have relied upon the mathematical verifications and other matters set forth in the verification report of _____ relating to the sufficiency of amounts held and invested

under the Escrow Agreement to discharge the Bonds in accordance with the Escrow Agreement, without independently undertaking to confirm such verifications and matters.

Respectfully submitted,

A Professional Law Corporation



NTS

CITY OF SAN JOSE



LEGEND

⑪ Great Mall Outside Public Improvements

----- City Boundary

Off-Site Public Improvements

1. Widen Capitol Avenue East Side
2. Bus Stops on Main and Capitol
3. Traffic Signal at Main and Mall Entrance
4. Traffic Signal at Main and Curtis
5. Signal Modification at Capitol and McCandless
6. Traffic Signal at Capitol and Centre Point
7. Interconnect Signals on Main, Curtis to Capitol
8. Interconnect Signals on Capitol, Main to Montague
9. Intersection Modification at Abel and Calaveras
10. Relocate Median Along Capitol
11. Modify Intersection at Milpitas and Calaveras
12. Traffic Signal at Abel and Curtis
13. Montague Deceleration Lane
14. Widen Curtis, Main to Mall
15. Widen Curtis, Abel to Main
16. Restripe Abel at Calaveras
17. Additional Westbound Left Turn at Montague and Capitol
18. Additional Eastbound Left Turn at Montague and Milpitas
19. Relocate PG&E Natural Gas Lines Along Capitol
20. Underground Electrical Lines
21. Water and Sewer Lines

MEMORANDUM

Transportation Planning Division



To: Blair King, Assistant City Manager
From: Joseph J. Oliva III, Principal Transportation Planner *JJO*
Subject: Transportation Improvements in RDA #1
Date: March 5, 2004

The transportation system improvements bonded for and completed by the Great Mall of the Bay Area have significantly contributed to the movement of goods and people in an efficient manner. These public improvements provide public benefit to the motoring public as well as private developments that have occurred and will occur in the vicinity of the improved facilities.

These public improvements will stimulate other developments within Redevelopment Project Area 1. Without these circulation improvements development would be constrained in the southern area of Redevelopment Project 1 for they would be required to pay for circulation improvements financed via the Great Mall Bonds. Transportation Facilities such as Great Mall Parkway, Calaveras Boulevard and Montague Expressway accommodate significant traffic volumes and allow local streets to function within capacity and provide local access.

Without the transportation system improvements, costs to develop circulation improvements within Project Area 1 could deter investment and limit the number of developments that the Redevelopment Agency could assist. This efficient transportation system will allow development to proceed without compromising the quality of life for local residents and businesses. The payment of these improvements will spur quality development, eliminate blight, increase the City's tax base, and improve the health and safety within the Redevelopment Area 1. These existing transportation facilities have spurred the development of additional regional transportation improvements, such as the Tasman East Light Rail Transit (LRT) line and a planned expansion of the Montague Expressway, which will serve as a catalyst for further private development.